

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC ALLEGED FAILURE OF BEECH	)	
GROVE WATER SYSTEM, INC. AND ITS	)	
OFFICERS, NATHAN WARD, CHAD MCMAHON,	)	CASE NO.
GREG CHEATHAM, GREG DANT, AND ITS	)	2021-00349
MANAGER, SHEILA MURPHY, TO COMPLY WITH	)	
A COMMISSION ORDER, KRS 278.990	)	

ORDER

The Commission on its own motion, establishes this proceeding to investigate, Beech Grove Water System, Inc. (Beech Grove Water), and its individual officers, Nathan Ward, Chad McMahon, Greg Cheatham, Greg Dant and its manager, Sheila Murphy, for allegedly failing to comply with the Commission’s June 9, 2020 Order in Case No. 2020-00156.<sup>1</sup> The willful failure to comply presents prima facie evidence of incompetency, neglect of duty, gross immorality, or nonfeasance, misfeasance, or malfeasance in office sufficient to make Beech Grove Water’s officers and manager subject to the penalties of KRS 278.990 or removal pursuant to KRS 74.025. The Commission finds that a public hearing should be held on the merits of the allegations set forth in this Order.

LEGAL STANDARD

Under KRS 278.250 and KRS 278.260, the Commission is authorized to investigate and examine the condition of any utility subject to its jurisdiction, including any practice or act relating to the utility service. Under KRS 278.280, if the Commission finds

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<sup>1</sup> Case No. 2020-00156, *Electronic Purchased Water Adjustment Filing of Beech Grove Water System, Inc.* (Ky. PSC June 9, 2020).

that any practice or act is unjust, unreasonable, unsafe, improper, inadequate, or insufficient, then the Commission has the authority to determine the just, reasonable, safe, proper, adequate, or sufficient practice or method to be observed. Upon a finding that Beech Grove Water, its commissioners, or superintendent violated any provision of KRS Chapter 278, Commission regulations, or a Commission Order, KRS 278.990 authorizes the Commission to assess civil penalties not to exceed \$2,500 for each offense against a utility and against any officer, agent, or employee of a utility who willfully violates any provisions of KRS 278, Commission regulations, or Orders.

### DISCUSSION

Beech Grove Water was a party to the proceedings in Case No. 2020-00156 and based upon Beech Grove Water not filing a base rate case since 2010 and that Beech Grove Water's unaccounted-for water loss exceeded 15 percent, the Commission's June 9, 2020 Order stated that Beech Grove Water was to file a general rate case or alternative rate filing within one year of date of that Order. As of the date of this filing, Beech Grove Water has not filed a general base rate adjustment case or an alternative rate adjustment case.

Since the final Order in Case No. 2020-00156, Beech Grove Water has filed Case No. 2021-00062,<sup>2</sup> a purchased water adjustment, with the final Order entered prior to the June 9, 2021 deadline.<sup>3</sup> Beech Grove Water also filed Case No. 2021-00188,<sup>4</sup> another

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<sup>2</sup> Case No. 2021-00062, *Electronic Purchased Water Adjustment Filing of Beech Grove Water System, Inc.*, (Ky. PSC Mar. 9, 2021).

<sup>3</sup> This type of case merely passes along increases in the cost of wholesale water purchased by the utility.

<sup>4</sup> Case No. 2021-00188, *Electronic Purchased Water Adjustment Filing of Beech Grove Water System, Inc.*, (Ky PSC May 28, 2021).

purchased water adjustment, which also had a final Order entered prior to the June 9, 2021 deadline. The requirement to file a general base rate adjustment or alternative rate adjustment within one year of June 9, 2020 was clear, and Beech Grove Water has not filed a general base rate adjustment or alternative rate adjustment complying with the Commission's Order.

### CONCLUSION

The Commission finds that a prima facie case exists that Beech Grove Water violated the Commission's June 9, 2020 Order in Case No. 2020-00156.<sup>5</sup>

Pursuant to KRS 74.020(1), a water district shall be administered by a board of commissioners which shall control and manage the affairs of the district. The Commission finds that a prima facie case exists in that Beech Grove Water officers: Beech Grove Water; Nathan Ward, Chad McMahon, Greg Cheatham, Greg Dant, acting in their respective official and individual capacities as officers of Beech Grove Water; and Sheila Murphy, in her capacity as manager of Beech Grove Water, an employee of the utility, willfully aided and abetted in the above violations and may be subject to penalties pursuant to KRS 278.990 or removal pursuant to KRS 74.025 for incompetency, neglect of duty, gross immorality, or nonfeasance, misfeasance, or malfeasance.

IT IS THEREFORE ORDERED that:

1. Beech Grove Water; Sheila Murphy, in her capacity as manager; and Nathan Ward, Chad McMahon, Greg Cheatham, Greg Dant, acting in their respective official and individual capacities as officers of Beech Grove Water, shall submit to the

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<sup>5</sup> Case No. 2020-00156, *Electronic Purchased Water Adjustment Filing of Beech Grove Water System, Inc.* (Ky. PSC June 9, 2020).

Commission individual written responses to the allegations contained herein within 20 days of the date of entry of this Order, including but not limited to any, and all written testimony or documentation that would dispute the allegations contained herein.

2. Counsel for the parties shall enter an appearance or appearances within 20 days of the date of entry of this Order.

3. The Commission directs Beech Grove Water to the Commission's July 22, 2021 Order in Case No. 2020-00085<sup>6</sup> regarding filings with the Commission. Electronic documents shall be in portable document format (PDF), shall be searchable, and shall be appropriately bookmarked.

4. Each response shall include the name of the witness responsible for responding to the questions related to the information provided. Each response shall be answered under oath or, for representatives of a public or private corporation or a partnership or association or a governmental agency, be accompanied by a signed certification of the preparer or the person supervising the preparation of the response on behalf of the entity that the response is true and accurate to the best of that person's knowledge, information, and belief formed after a reasonable inquiry.

5. A party filing a paper containing personal information shall, in accordance with 807 KAR 5:001, Section 4(10), encrypt or redact the paper so that personal information cannot be read.

6. Beech Grove Water; Sheila Murphy, in her capacity as manager; and Nathan Ward, Chad McMahon, Greg Cheatham, Greg Dant, acting in their respective

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<sup>6</sup> Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC July 22, 2021), Order (in which the Commission ordered that for case filings made on and after March 16, 2020, filers are NOT required to file the original physical copies of the filings required by 807 KAR 5:001, Section 8).

official and individual capacities as officers of Beech Grove Water; shall appear on January 25, 2022, at 9 a.m. Eastern Standard Time, in the Richard Raff Hearing Room of the Commission's offices at 211 Sower Boulevard in Frankfort, Kentucky, to give evidence regarding the allegations herein and to provide the Commission an update on the financial status and operational capacity.

7. Beech Grove Water shall file with the Commission, no later than January 10, 2022, 15 days prior to the hearing, a list of witnesses and exhibits to be presented at the January 25, 2022 hearing. Beech Grove Water shall provide copies of any exhibit it intends to introduce into evidence at the hearing via electronic copy to Commission Staff.

8. Beech Grove Water shall give notice of the hearing in compliance with 807 KAR 5:001, Section 9(2)(b). In addition, the notice of hearing shall include the following statement: "This hearing will be streamed live and may be viewed on the PSC website, [psc.ky.gov](http://psc.ky.gov)"; and "Public comments may be made at the beginning of the hearing. Those wishing to make oral public comments may do so by following the instructions listed on the PSC website, [psc.ky.gov](http://psc.ky.gov)." At the time the notice is mailed, or publication is requested, Beech Grove Water shall forward a duplicate of the notice and request to the Commission.

9. Pursuant to KRS 278.360 and 807 KAR 5:001, Section 9(9), a digital video recording shall be made of the hearing.

10. The record of Commission Case No. 2020-00156, Case No. 2021-00062, and Case No. 2021-00188 are made a part of the record by reference only.

11. McLean County Judge Executive, Curtis Dame shall be served with a copy of this Order.

By the Commission

ENTERED  
OCT 18 2021 rCS  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

  
Executive Director

Case No. 2021-00349

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Calhoun, KY 42327

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